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Alan Carias

3406

ADDITIONAL

APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY	DOCKET NO.
08/519,200	08/25/95	JOHNSON	M	

This action is final.

34M1/1017

DAVID M. KLEIN, ESQ. for allowance except for formal matters, please. DAVID M. KLEIN, ESQ. EXAMINER

EXAMINER
 (Signature)

BRYAN, CAVENTHRE

245 PARK AVENUE

NEW YORK NY 10167-0034

ART UNIT

PAPER NUMBER

DATE MAILED:

10/17/97

Disposition of Claims

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Application Papers

See the entry on criticism of Dr. Christopher's Master Drawing Review, PTO-848.

The officer indicated that _____ was objected to by the examiner.

The user is not identified, filed on is assumed dead, or

X The question should be given to the Examiner.

There are a number of other factors that may be related to the

Priority under 35 U.S.C. § 119

Applicant certifies that this is a claim for foreign priority under 35 U.S.C. § 119 for:

Since the time that the CERTIFIED copies of the prior documents have been

1979, 200

Sales Code/Serial Number:

and this is a later stage application from the International Bureau. (PLT Rule 17.1(a)

100-443887-14

Acknowledgment of a claim for domestic priority under 35 U.S.C. § 119e

Attachment(s)

X-1000 - 21 September 1964 - 1000 - 1000

Administrative Disclosure Statement: (40 CFR 146.2 (Paper No. 5))

interview summary. PTO 413

Notice of Drafting-person's Patent Drawing Review, PTO-948

Notice of Informal Patent Application: 210,157

.. SET OFFICE ACTION ON THE FOLLOWING PAGES

Office Action Summary

Application No.
08/519,200

Applicant(s)
Johnson

Examiner
Alan Cariaso

Group Art Unit
3406



☒ Responsive to communication(s) filed on Jul 9, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-42 is/are pending in the application.

Of the above, claim(s) 1-22 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 23-42 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Response to Amendment

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Descriptions of the “first type of lighting condition” being “sunlight” and the “second type of lighting condition” being “absence of sunlight”, as recited in claim 31, and the corresponding result of “the second transmittance state” being higher than the “first transmittance state”, as recited in claims 31 and 32, all have no support in the specification.

Claim Rejections - 35 USC § 112

2. Claims 31-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31 and 32, the “second transmittance state” being higher than the “first transmittance state” and the “second transmittance state” being a result of the “second type of

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lighting condition” being the “absence of sunlight” are vague and indefinite since they imply that a higher energized state is a result of the absence of the energy source which is impossible.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23, 24, 26-33, 35-37, and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Todd, Jr. et al in view of Blum.

Todd discloses a device comprising an electromagnetic source (12), a photosensitive layer (3) at least partially covering the light source (12), the photosensitive layer (3) having a first low transmittance state (col.4, lines 41-46) under ambient interior lighting conditions changeable to a second higher transmittance state (col. 4, lines 46-51) upon illumination of electromagnetic radiation from the light source (12), wherein the first transmittance state is a first color appearance (fig.3A) and the second transmittance state is a different color appearance (fig.3B), wherein the photosensitive layer comprises a material equivalent to photochromic material (col.1, lines 42-51). However, Todd does not disclose a housing.

Blum teaches the use of a housing (10) for the purpose of supporting a photosensitive (CRT) tube. It would have been obvious to one having ordinary skill in the art at the time of

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applicant's invention to provide the photosensitive tube device of Todd Jr et al including a housing as taught by Blum in order to support the tube device.

Todd discloses the claimed invention except the first lighting condition being sunlight and the second lighting condition being the absence of sunlight. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to include sunlight as the high ambient light source as the first lighting condition of Todd (col.4, lines 41-46) and the absence of sunlight as the second lighting condition or Todd's low ambient condition (col. 4, lines 46-51) for the purpose of changing the state of the photosensitive layer between the first and second transmittance states. Official Notice is take of the equivalence of Todd's high and low ambient light conditions and sunlight and absence of sunlight for their use in the light discharge art and the selection of any of these known equivalents to change the state of the photosensitive layer between the first and second transmittance states would be within the level of ordinary skill in the art.

5. Claims 23-27, 29-35, and 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al in view of Nilssen.

Kobayashi discloses a photosensitive interior lighting fixture comprising a light source (1), a photosensitive layer (4,5 or inner fluorescent phosphor in tube 1) at least partially covering the light source (1), the photosensitive layer (4,5 or fluorescent phosphor) a first low transmittance state under ambient interior lighting conditions (col.3, lines 22-35) changeable to a second higher

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transmittance state (col.1, lines 57-68; col. 4, lines 63-66) upon illumination of electromagnetic radiation from the light source (1), wherein the first transmittance state is a first color appearance (λ -A,B, figs. 12 and 13) and the second transmittance state is transparent (λ wavelength = 0) or a different color appearance (figs. 12 and 13), and wherein the ambient interior light conditions define external lighting which inherently include sunlight (col.3, lines 22-35). However, Kobayashi does not disclose a housing being a track light fixture.

Nilssen teaches the use of a track light fixture housing (STLU4, figs. 3 and 4) for the purpose of supporting a photosensitive or fluorescent tube. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide the photosensitive tube device of Kobayashi et al including a track light fixture housing as taught by Nilssen in order to support the tube device.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Morimoto et al and Giddens et al show other photosensitive objects part of the path of light from a light source which automatically changes from a lower state to higher excited state upon exposure to the electromagnetic radiation.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (703) 308-1952.



ALAN CARIASO
PRIMARY EXAMINER

AC

October 10, 1997